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Security Council

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Statement by the President of the Security Council

At the 6053rd meeting of the Security Council, held on 19 December 2008, in connection with the Council's consideration of the item entitled "International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991; International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994", the President of the Security Council made the following statement on behalf of the Council:

"The Security Council recalls its resolution 827 (1993) of 25 May 1993, which established the International Tribunal for the former Yugoslavia (ICTY), and its resolution 955 (1994) of 8 November 1994 which established the International Criminal Tribunal for Rwanda (ICTR) — the Tribunals — and further recalls that resolution 1503 (2003) of 28 August 2003 called upon the Tribunals to take all possible measures to complete all trial activities at first instance by the end of 2008 and to complete all work in 2010 — the completion strategies — and that resolution 1534 (2004) of 26 March 2004 emphasized the importance of fully implementing the completion strategies.

"The Security Council recalls that the Tribunals were established in particular circumstances of the former Yugoslavia and Rwanda as an ad hoc measure contributing to the restoration and maintenance of peace.

"The Security Council takes note of the presentations made on 12 December 2008 by the Presidents and Prosecutors of the Tribunals to the Security Council on the implementation of the completion strategies.

"Noting with concern that the deadline for completion of trial activities at first instance has not been met and that the Tribunals have indicated that their work is not likely to end in 2010, the Security Council emphasizes that trials must be conducted by the Tribunals as quickly and efficiently as possible and expresses its determination to support their efforts toward the completion of their work at the earliest date.

"The Security Council reaffirms the necessity of persons indicted by the ICTY and ICTR being brought to justice.

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"The Security Council calls on all States, especially States where fugitives are suspected to be at large, to further intensify cooperation with and render all necessary assistance to the ICTY and ICTR, as appropriate, in particular to achieve the arrest and surrender of all remaining fugitive indictees.

"The Council also reaffirms in this context that the referral of cases to competent national jurisdictions is an essential part of the completion strategies and in this regard underlines again the need for the Tribunals to concentrate their work on the prosecution and trial of the most senior leaders suspected of being most responsible for crimes within their jurisdiction, and urges the Tribunals to work with relevant national authorities to secure the transfer of cases which do not involve this level of responsibility for prosecution by competent national jurisdictions.

"The Security Council acknowledges the need to establish an ad hoc mechanism to carry out a number of essential functions of the Tribunals, including the trial of high-level fugitives, after the closure of the Tribunals. In view of the substantially reduced nature of these residual functions, this mechanism should be a small, temporary, and efficient structure. Its functions and size will diminish over time. Its expenses will be expenses of the Organization in accordance with Article 17 of the Charter of the United Nations.

"The Security Council emphasizes that any such mechanism will derive its authority from a Security Council resolution and from statutes and rules of procedure and evidence based on those existing for the ICTY and the ICTR, modified as appropriate, and that accommodations may be needed to address the differing needs and circumstances of the ICTY and the ICTR.

"The Security Council expresses its appreciation to its Informal Working Group on International Tribunals for its work to date on the establishment of this mechanism, including through a thorough examination of which functions of the Tribunals are necessary for the administration of justice after their closure. The Security Council requests the Informal Working Group on international tribunals to continue its efforts in that regard and to concentrate on the main outstanding issues with a view to drafting as soon as possible appropriate instruments necessary for the performance of residual functions of the Tribunals.

"In order to facilitate the further work of the Informal Working Group on International Tribunals, the Security Council requests the Secretary-General to present a report within 90 days on the administrative and budgetary aspects of the options for possible locations for the Tribunals' archives and the seat of the residual mechanism, including the availability of suitable premises for the conduct of judicial proceedings by the residual mechanism, with particular emphasis on locations where the United Nations has an existing presence.

"The Security Council requests the Secretariat to provide the Informal Working Group with all necessary assistance, including interpretation in the six working languages of the Council."